

# Department of Revenue

OFFICE *of the Board of Revenue*  
STATION *Madras.*

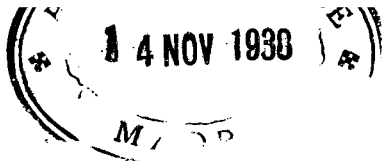
Res. No. 11034

Dated 15-4-39

Pages in the file

(SUBJECT.)

Endowments - Charitable - (Bellary) - Charit  
by late Sra. S. Ramachetty - Permission to file  
Not accorded - C.O. recorded



95798  
Education and Public Health Department.

Memorandum No. 47694 - 1 F. dated 10th Novemb 14 1938.

From the Collector of Bellary, No. 3752/388-1, dated 30th Octr. 1938.

Mismanagement of certain charities - Bellary permission to file suit.

.....

Referred to the Board of Revenue for remarks.

S.R.Kaiwar

Under Secretary to Government

To the Board of Revenue ( with enclosure in original to be returned with reply).

\*\*\*\*\*

Forwarded

(By order)

Letter from W. Scott Brown Esquire, C.I.E., I.C.S.,  
Collector, Bellary, No. R.O.C. 3752/38-B-1, dated 30th Octr.38.  
to the Secretary to Government, Law Department, Madras.

SUITS - Civil - Application under Section 92-  
C.P.C. permission to file a suit against heirs  
of J.P. Cotelilingam -requested.

I enclose a copy of the petition under Sec. 92 of the  
Civil Procedure Code, filed by two members of the Public of  
Bellary town, requesting my permission to file a suit for  
the proper administration of public charities created by the  
late Sri. V. Ramachetty. A copy of the will dated 10-10-1924  
executed by the late V. Ramachetty and a copy of the plaint in  
O.S.No. 482/38 on the file of the District Munsiff, Bellary  
is also enclosed.

2. Under Section 93 Civil Procedure Code, Collector  
can, with the previous approval of the Local Government,  
grant the permission sought for by the petitioners. The  
Tahsildar, Bellary, who enquired into the petition, has re-  
ported that the contents of the petition appear to be true.  
I therefore request the Government to accord the sanction,  
contemplated under Sec. 93 Civil Procedure Code.

Copy of the Will dated 10-10-1924 executed by Vurakkara Rama Chetty alias V. Ramananda, Pensioner, Bellary.

1. I have requested the Imperial Bank to hand over my income-tax free bond No. D.009656 and D.009657 each of Rupees one hundred to Mr. J.P. Cottelingam. M.A., as trustee to utilise the interest thereon Rs.12/- for making gifts on Christmas day to orphan children in Bellary orphanage.

2. In like manner I have also handed over one thousand rupees income tax free bond 1945-55 G.O. 012104 bearing 5% interest for the employment of a watchman and setting up a lamp post at Kharkana Bhavi at the foot of the hill in the fort for preserving the purity of water for the use of the people in general and preventing the people from polluting the water by bathing and washing in it.

3. I hereby declare and appoint J.P. Cottelingam Esquire M.A., as my executor to carry out the charities herein before mentioned. The said J.P. Cottelingam Esq., has kindly accepted the executorship and also consented to act up to my desires in the said matter and carry out the same and has in token of such consent attested in the will hereunder. If for any reason the said J.P. Cottelingam Esquire, his heirs, executors and administrators and assigns fail to discharge or fulfil the objects of the above said charities the said funds hereby set apart for the above said charities shall revert to my heirs, executors..administrators and assigns and who will in like manner continue to perform and fulfil the conditions of the above said charities.

Sd. Vurakkara Rama Chetty,  
alias V. Ramananda, Pensioner, Bellary;  
dated 10-10-1924.

I accept the trust and agree to carry out the desire of the donors.

Copy of the plaint in O.S.482/38 on the file of the District Munsiff, Bellary.

In the Court of the District Munsiff, Bellary,

O.S.No. 482/38,

S.Virupaksha Chetty .. Plaintiff.

- Vs.-

1. J. Padmakar Cotilingam.
2. J. Dinakar Cotilingam.
3. Miss. Lydia Leelavathi Cotilingam
4. J.M.Cotilingam
5. Miss Esther Satyavathi Cotilingam
6. Miss Hana Cotilingam.
7. B. Bheemarao .. .. Defendants -

Plaint under Sec. 26 O.R. Civil Procedure Code.

- 
1. Plaintiff - S. Virupaksha Chetty, 42 years, son of Vellanna Chetty, Vysya, Deputy Collector, now on leave, Bellary.

C/o Mr. V. Narayana Chetty,

Advocate, Bellary.

Defendants : -

- (1) J.Padmakar Cotilingam, B.A., Principal, Training ~~XXXXX~~ Institution, Methodist Mission, Medak Nizam's State.
- (2) J.Dinakar Cottilingam, M.B.B.S., Superintendent, Methodist Mission Hospital, Medak, Nizam's State.
- (3) Miss. Lydia Leelavathi Cottilingam, M.A., L.T., Professor of Economics, Maharanees College, Mysore.
- (4) Moshua Monohar Rao Cotilingam, 5, Victoria Hostel, Triplicane, Madras.
- (5) Miss. Esther. Satyavathi Cotilingam C/o Miss. L.L. Cotilingam, Professor of Economics, Maharanees - College, Mysore.
- (6) Miss Hana Cotilingam C/o Miss. L.L. Cotilingam Professor of Economics, Maharanees College, Mysore.
- (7) B.Bheema Row, Major, father's name not known, Brahmin, Advocate, Bellary.

Nos. 1 to 6 are majors, children of Late Mr. J.P.Cotilingam, Indian Christian.

3. The plaintiff is the daughter's son of late Mr. V. Rama Chetty alias Ramanand, retired Sub-Registrar, who died on 18th March 1934 leaving the plaintiff as his sole heir.

4. On or about 14-10-1924 late Mr. Rama Chetty handed over the following Government Bonds of his to late Mr. Cotilingam viz.,

- (i) Rs.100/- 6 per cent Income-tax free bond No. D-009656 repayable in 1930 of the Government of India.
- (ii) Rs.100/- 6 per cent Income-tax free bond No. D.009657 repayable in 1930 of the Government of India.
- (iii) Rs.1000/- 5 per cent income tax free Government of India Bond repayable in 1945-55 -bearing No. G.012104.

on trust to utilise the interests of the bonds as follows:-

Interest on two "Hundred Ruppes" bonds was to be utilised for making gifts on Christmas day to orphan Children in - Bellary orphanage. The interest on Rs.1000/- bond was to be utilised for the employment of a watchman and setting up a Lamp post at Kharkana well at the foot of the hill in the Fort for preserving the purity of the water for the - use of the people in general and preventing the people from polluting the water by bathing and washing clothes in it.

5. Late Mr. Ramachetty has left a copy of the trust-deed writted in his own hand in an old diary which is filed herewith. It also recites the late Mr. J.P.Cotilingam by his own endorsement at the foot of the original accepted the trust and agreed to carry out the desires of the donor.

6. Late Mr. J.P. Cotilingam was drawing interest on the said bonds and he died in November 1935, leaving defendants 1 to 6 as his sole heirs. The 7th defendant, an advocate of this Court is the executor appointed in the will of Mr. J.P.Cotilingam.

7. After the death of Mr. Cotilingam the plaintiff issued legal notices on 22-7-1936 to defendants demanding accounts of trust monies, the arrangements made for the carrying on of the trust after the death of Mr. J.P.Cotilingam, whether the trust purposes were carried out or not and whether trust amount <sup>would be</sup> returned to the plaintiff <sup>and</sup> if the trusts were not duly carried out. The defendants kept si Againt the plaintiff issued on 12-7-37 a second series of

notices to defendants demanding reply to the original notices. My client even intimated that if no reply was sent he would be forced to presume, misappropriation, mismanagement and that they were trying to hide matters. Even to these there was no reply. On 11-8-1936, however the third defendant had written that she would make enquiries and reply from the absence of any reply from two years the plaintiff apprehends that all is not well with regard to the trust.

8. The plaintiff came to know later on that the 7th defendant had accepted the executorship and when the plaintiff approached him the 7th Defendant <sup>said</sup> he would make enquiries and that the bonds and trust deed entrusted were not with him. He however stated that two water taps were put up one near Mr. Cotilingam's house and another at in the Convent recently in the name of the late Mr. V. Rama Chetty. The putting up of the taps appear to be unauthorised. He also stated <sup>a</sup> that the Rs.100 bond is at present standing in the name of 3rd defendant.

9. Late Mr. Cotilingam had admitted the trust and the objects of the trust not only before the plaintiff but also - before some of his friends. He also had shown the plaintiff the original of the trust-deed.

10. The defendants are unwilling to commit themselves to any writing to plaintiff regarding the trust in spite of - repeated notices. The plaintiff apprehends that the trust monies have been misappropriated and were not utilised for - purposes of trust.

11. If there has been any misappropriation the defendants should reimburse the trust funds from the estate of the late Mr. J.P. Cotilingam.

12. According to the terms of the instrument of trust if for any reason the said Mr. J. P. Cotilingam his heirs and executors and administrators and assignees fail to discharge or fulfill objects of the trust the said funds set apart should revert to Mr. Rama Chetty his heirs, and executors.

Hence, if the objects of the trust have not been carried out the trust funds should be paid back to plaintiff for the purpose of carrying out the objects of the trust.

13. Cause of action arose against the defendants on 8-11-1935 when Mr. Cotilingam died on 22-7-1936 and 12-7-'37 when notices were issued to defendants and at subsequently at Bellary within the jurisdiction of this Court.

14. The plaintiff values the suit as follows: -  
Value for relief (a) for account Rs.10/-  
Value of relief (b) is not ascertainable unless accounts are taken. Provisionally it is value at Rs.10/-.

15. The plaintiff therefore prays (a) that the defendants be directed to render an account of trust funds from 14-10-1924 the date of trust up to date to enable the Court to find out if the purposes of the trust have been duly carried out, and that in case the trust has not been duly carried out the Court may ascertain the amount that should now be available under the trust;

(b) and direct the defendants to hand over the to plaintiff the amount thus ascertained from the trust properties or from proceeds thereof in their hands from the estate of late Mr. J.P. Cotilingam.

82/1937  
8.3

Certain Charities - His Majesty  
Permission to file Nil

1. From the Collector of Bellary  
No 20 5154/38-10. D 30-10-38
2. Memo No 47694-1F D 10-11-38

Ref. Y. 5798/38-1 D 6-1-39.

The Collector is requested to submit a copy of the petition filed by two members of the public of Bellary town. As well as the records of the enquiry made by the Tahsildar.

2. The Board observes that the proposed plaint is by a <sup>individual</sup> ~~person~~. The Collector is requested to report how the requirements of Sec 92 of the C.P.C is satisfied in this

In reply, please quote  
number, date and  
short title.

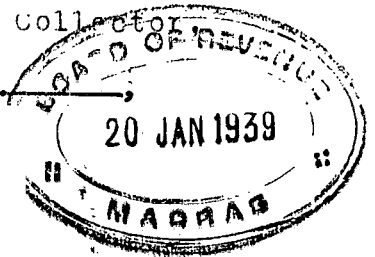
Received \_\_\_\_\_ Registered \_\_\_\_\_

From (Name) W. Scott Brown Esquire., C.I.E., I.C.S.,

(Designation)

Post Box \_\_\_\_\_, (STATION) Bellary

Telegraphic Address \_\_\_\_\_



To

The Secretary to the Board of Revenue,  
M A D R A S.

R.O. No. 3752/38 B1, dated 17th January 19 39

Sir,

Endowment - charitable - Bellary Town - charity  
by late V.R. machetty - mismanagement - permission  
to file suit against the heirs of J.P. Cotelingam.

ENCLOSURES

Board's ref. 5798/38-1 dated 6th June 1939.

SPARE COPIES

A copy of the petition filed by two ~~enclosures~~ of the  
public of Bellary town is enclosed. There is no record  
of enquiry except the reports of the Tahsildar Bellary  
and the Revenue Inspector Bellary based on the oral state-  
ment of Sri. B. Bhima Rao M.L.C., the 7th defendant in  
D.S. 482/38 on the file of the District Munsiff Bellary.

The copy of the plaint sent to Government relates to,  
a suit already filed by Sri. S. Virupaksha Shetty, the  
heir of the late donor for the recovery of the trust  
property and is not a copy of the proposed plaint, as obser-  
ved by the Board. The permission now sought for is for  
the institution of a suit to be filed by two ~~enclosures~~  
of the general public of Bellary town who are interested  
in the said trust fund, for selecting a scheme under  
section 92(g) C.P.C. The requirements under section  
92 C.P.C. are therefore satisfied.

2. 1. 39  
of Civil Procedure  
(Book No. 14)

*Memorandum*

Copy of letter No. Nil dated 28-9-38 from the ~~enclosures~~ to the Collector, Bellary.

Sub:- Application under section, 92 C.P.

One late Mr. V.Rama Chetty, retired Sub Registrar of Bellary on 14-10-1938. Following Government orders of his to late Mr. J.P. Cotelingam.

- Rs.100/- 6% income tax free bond of No.D.009656 payable in 1930 of the Government of India.
2. Rs.100/- 6% Income tax free bond of No.D.009657 repayable in 1930 of the Government of India.
3. Rs. 1000/- 5% Income tax free Government of India Bond repayable in 1945-55 bearing No.012004.

On trust to utilise the interest of the bonds as follows:- interest on the two 'hundred rupee' bonds was to be utilised for making gifts on Christmas day each year to orphan children in Bellary Orphanage. The interest on Rs.1000/- bond was to be utilised for the employment of a watchman and setting up a lamp-post at the Kharkana well at the foot of the hill outside the Fort on the northwest thereof for preserving the purity of the water for the use of the people in general and preventing the people from polluting the water by bathing and washing clothes in it.

Late Mr. Rama Chetty has left a copy of the trust deed written in his own hand in an old diary kept by him. It also ~~xxxxxxxxxxxx~~ recites that late Mr. J.P. Cotelingam by his own endorsement at the foot of the original, accepted the trust and agreed to carry out the desires of the donor.

Late Mr. J.P. Cotelingam was drawing interest for a number of years but never utilised the income for any of the purposes of the trust.

Mr. S.Virupaksha Chetty, Deputy Collector, now at Narasaraopet, is the grandson of sole heir of the late Mr. V.Rama Chetty, the donor. He gave several notices to all the heirs of the late Mr. J.P. Cotelingam to give him an account. They

DESPATCHED

8-MAR 1939

Channay - (Bellary) - Bellary  
town - Channay by late V. Kameshetti  
- mismanagement - permission to file  
suit - Report submitted.

Read 95798 from Govt. for the

Board's Ref. no. 95798/38-1 of 6/39 - 6

J 407/39 from the Govt. of  
Bellary

Ref. 95798/38-2 dated 17-3

In reply to the  
Memorandum from Government  
read above the Board offers the  
following remarks: -

Sri S. Vinpaksha

Chetti Deputy Collector, in his  
capacity as the <sup>grandson and</sup> sole heir of the  
endower has <sup>already</sup> filed a suit <sup>in respect of</sup> praying  
that if the objects of the trust

have not been carried out the  
trust funds amounting to Rs. 1,200/-  
should be recovered and paid to him  
or for the purpose of carrying out the  
objects of the trust. If the Court  
recognises the trust and Sri S. Vin-  
paksha Chetti is named as the trustee  
he need for the <sup>recovery of</sup> the trust funds  
to the Court for ~~the~~ <sup>the</sup> purpose of carrying out the

- in the petition  
under Sec 92 Civil Proc Code that  
his suit is only for recovery of  
trust funds for failure of  
execution and not for any  
scheme for any continuation  
of the trust for the same or  
similar objects is thus not  
quite correct. The further reason  
which they give for their desire  
to institute a suit as their own  
right is that Sri Vinpaksha Chetti  
has filed the suit without any  
sanction and that they therefore  
they ought to intervene by way of  
Sri Vinpaksha Chetti requires no sanction  
as filed the suit as a defendant.

re-arrange

a scheme ~~by the members of the trust~~  
will arise <sup>only</sup> in the most unlikely event  
of his not carrying out the objects of  
the trust. ~~The respondents in the suit~~

~~filed by Sri S. Vinayakdas Chetti~~ are responsible

and educated persons who cannot, in the  
absence of adequate <sup>proof</sup> reasons be presumed to

have misappropriated a public trust and the Cell's report indicates no such proof.

~~As a matter of fact there is no real  
need for another suit at this juncture  
by the members of the public ~~who~~ when  
a ~~has already been~~  
the suit filed on behalf of the trust  
by the grandson and sole heir of the  
respondent himself.~~

The Board submits ~~that~~  
in the circumstances <sup>that</sup> the permission sought for  
need not be given, pending decision of  
the court already filed by Sri S. Vinayakdas Chetti  
in the matter.

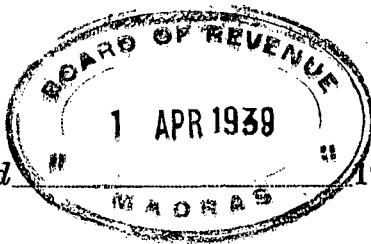
CC  
4/3/39

While the suit filed by Sri  
S. Vinayakdas Chetti is pending,  
there is no real need for another  
suit by the members of the  
public. Besides,

To Mr. Secretary to Govt. of Madras

from the Chief's Secretary and to the  
relatives.

To 10 copies of H. 1001/157  
to be sent

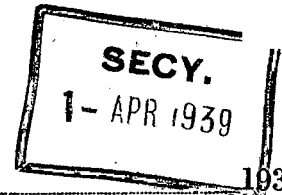


Received

193

Registered

193



Abstract.

10  
4/4

Endowments - Charitable - Bellary - Charity by late Sri V. Rama  
Chetty - Permission to file suit - Not accorded.

Education & Public Health DEPARTMENT.

G.O. No. MS. 1227-P.H. dated 30th March 193 9

READ the following paper :—

ENCLOSURES.

7.3e.6/ From the Collector of Bellary, Roc.No.3752/38B-1.  
dated 30th October 1938.

19-20e.6/ From the Board of Revenue, Ref.(T).5798/38-2, dated  
7th March 1939. 4.

M

ORDER :

2/15/39

recorded The Collector of Bellary is informed that the decision  
in the suit filed by Sri S. Virupaksha Chetti, the sole heir  
of the Endower, against the heirs of late Mr.J.P.Cotelingam for  
the recovery of the trust funds according to the will of the  
Endower should be awaited, and that the question of according  
permission to file a suit under Section 93 Civil Procedure Code  
to the two members of the public of Bellary town will only arise,  
in the event of Sri S.Virupaksha Chetti not carrying out the  
objects of the trust.

/By Order of His Excellency the Governor/

G.H.Cooke,  
Secretary to Government.

To the Collector of Bellary.  
To the Board of Revenue

(True Copy)  
Forwarded

1.85  
Civil Procedure  
Code.

2/4/39

Endowments - Charitable - (Bellary)  
Certain Charities - Mismanagement  
Permission to file suit

Read J. 5798 Govt. Memo. E.P.H. No. 47694-1F.  
and enclosure - 11-

To Secretary

The Government have called for the Board's remarks on the Collector's request to accord sanction under section 93 of the Civil Procedure Code. The value of the trust property is not very considerable and may not bear the cost of the litigation. Besides Sections 92 & 93 C.P.C. contemplate the filing of a suit by two or more persons having an interest in the trust. The Collector states that two members of the public of Bellary request permission to file a suit and mentions the word 'petitioners'. But in the copy of the plaint only one individual is found to be the plaintiff.

2. In the circumstances the Collector may be requested to go into the matter more fully and to report with the connected records of enquiry. He may

d to elicit if anybody else is forth-  
ning to join the plaintiff for filing  
the suit. If the provisions of sections  
92 & 93 C.P.C are satisfied in this  
case, the collector may be requested  
to report if the petitioners are willing  
to fight out the matter at their own  
cost if the government are moved to  
accord their sanction under sections  
92 & 93 of the Civil Procedure Code  
for filing a suit.

1184 & 85 of the C.P.C

AR  
25/11/38

~~For order~~ From the copy of the plaint  
at page 7 c.f. it will be seen that the  
plaintiff is the daughter's son of the  
founder of the trust and that he is interested  
in the trust. The Collector may be requested  
to report how the requirement of § 92 of the  
C.P.C. is satisfied, as the plaint is by a single  
individual and to submit a copy of the  
petition filed by two members of the public  
of Bellary town <sup>as well as</sup> ~~with~~ <sup>records</sup> ~~the~~ <sup>the</sup> ~~report~~ <sup>engine</sup>,  
made by the Collector.

✓

1184 of the C.P.C

Yes  
25/11/38

62  
7/12/38

for order

To A-5 (ltt)

Draft submitted

by  
-1-39-602  
4/1/39

has  
5/1/39

st. s (s. s.)

p 11 c.f. Issued as Board's Order No. 2579 of 20-1 dated 6-1-29

p 13 c.f. Recd 2407 from the Collector of Bellary dated 17

to st. s (s. s.)

p 3 c.f.

on 12/15-17 c.f. The Collector of Bellary requests that he may be authorised to permit the petitioners to file a suit for the proper administration of the trust property left by one Sri V. Ramaswami deceased for a public charitable purpose. The case is governed by sections 92 and 93 of the Code of Civil Procedure.

ad 15 of  
ex. no. XIV.

84 of book  
no. XIV

2/ Copy of the petition filed by two members of the public of Bellary town under section 92 of the C.P.C is at pages 15 to 17 c.f. As regards the alleged mismanagement of the trust property referred to in the petition the Collector reports that there is no record of enquiry except the reports of the Tahsildar, Bellary and the Revenue Inspector, Bellary based on the oral statements of the 7<sup>th</sup> defendant in C.S. No. 482/38 on the file of the District Munsiff, Bellary. In his first letter he <sup>stated</sup> ~~reported~~ that the Tahsildar Bellary who enquired into the petition had reported that the contents of the petition appeared to be true. The Collector has not submitted copies of the Revenue Inspector's and the Tahsildar's reports. He may be requested to cause a careful enquiry to be made by the Tahsildar and to submit the record of enquiry. For orders.

6/2/29

In respect of the same trust Dy. Coll. Sri Visveswaraiah in his capacity as the sole heir of the endower,

the prayer is that if the objects of the trust have not been carried out, the trust funds (Rs 1200) shd be recovered and paid to him for the purpose of carrying out the objects of the trust — vide para 12 of the plaint. The statement in the petn to the Cts by the two members of the public under Sec 92 C.P.C that Sri Virupaksha Chetti's suit is only for recovery of trust funds for failure of execution and not for any scheme for any continuation of the trust for the same object or similar objects is not quite correct in the light of para 12 of the plaint. The further reasons which they give for their desire to file a suit <sup>on their own account</sup> is that as Sri Virupaksha Chetti has filed the suit without obtaining sanction they feel they ought to intervene by way of abundant caution and file a suit to co-operate with him in evolving a proper scheme. Sri Virupaksha Chetti requires no sanction to file the suit as he acts not as a member of the public but as the grandson and the sole heir of the endower. If the Court recognizes the trust and he succeeds in the suit and does not thereafter carry out the objects of the trust (which is most unlikely), it will be time enough for the members of the public to intervene and apply to the Court for framing a scheme. While the suit filed by Sri S.V. Chetti is pending, there is no <sup>real</sup> ~~formal~~ need for another suit by the members of the public. Besides, the respondents are respectable and educated persons who cannot in the absence of adequate evidence be presumed to have misappropriated a public trust and the best plan seems to be to await its decision in the suit filed by Sri S.V. Chetti.

The bona fides of his petn is doubtful  
8/13/39

H 9-10, p 16 of last para

Quite so  
8/13

✓

✓

Yes  
8/13

It is for orders: whether the Govt may be satisfied that in reply to the memo at p 10 of that permission need not be given, pending decision in the suit already filed. <sup>has</sup>  
10/12/39

Yes  
8/13

A. S. (Sett.)

To A. S. (Sett.)

Please see the orders at p. 4 n. f. --

Draft submitted.

ARS

~~1/3~~ ~~60~~  
3 4/3/39

has

~~6/3/39~~

p. 19-20 c. f. | Read as Board's Ref. J. 5798/38-2 dated 17-3-39

p. 21 c. f. | Read J. 1703 O. O. No. No. 1227-P. H. dated 30-3-39

A. S. (Sett.)

To A. S. (Sett.)

The O. O. at p. 21 c. f. may be recorded.

Draft submitted at p. 21 c. f.

ARS

~~5/4~~ ~~60~~  
12 12/4/39

has

~~13/4/39~~

P. No. 1037 *Muz*  
Dated 15-4-39

Single Member. *M.1*  
~~Two Members.~~  
~~Full Board.~~

---

|           |                 |                                                  |
|-----------|-----------------|--------------------------------------------------|
| A.D.S.    | Asst. Secretary |                                                  |
| I-A. &    | Land Sett. Sep. | J.S. Secy. $\frac{M}{3} \frac{M}{2} \frac{M}{1}$ |
| L.R. Rev. | Rev.            |                                                  |

---

- (1) Open file seen by
- (2) Final draft seen by
- (3) Now circulated to
- (4) Initials.

passed for record.

Secretary  
Joint Secretary

~~A.S. (C.W.)~~

~~A.S. (L.R.)~~

A.S. (Sett.)

~~A.S. (Excise)~~

~~A.D.S. & L.R.~~

~~I-A.~~

*has*  
*4/5/39*

\*Note.- Entries not required to be scored out.